

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
INBOUND INTERNATIONAL EXPEDITED SERVICES 2
(MC2009-10)

Docket No.
CP2013-77

MOTION FOR RECONSIDERATION OF ORDER NO. 1822

(September 19, 2013)

On August 30, 2013, the Commission issued Order No. 1822 in this docket. That Order approved the Postal Service's notice of a change in rates not of general applicability and a request to change the MCS description for the product that is now called Inbound EMS 2. In its Order, the Commission noted that it reviewed the financial model submitted in support of the request and found that it demonstrated that the proposed rates comport with the provisions applicable to rates for competitive products.¹ The Postal Service seeks reconsideration of footnote 10 of the Order and the Order's list of directives no. 5, which provides that "[i]f the Postal Service enters into any bilateral Tier 1b agreements, it shall file such agreements with the Commission pursuant to 39 C.F.R. part 3015."²

By way of a brief background, the newly approved rates include three tiers. This structure is reminiscent of the original Inbound International Expedited Services product, when participation in the UPU's EMS Cooperative Pay-For-Performance plan was not mandated by the Cooperative. At that time, there were price categories for operators

¹ Order No. 1822, Order Approving Rate And Classification Changes For Inbound International Expedited Services 2, August 30, 2013, at 5.

² Id. at 7.

that were not EMS Cooperative members, operators that were EMS Cooperative members, and those EMS Cooperative Members that also participated in the Pay-For-Performance plan or that were members of the Kahala Posts Group. Under that structural framework, the Postal Service provided an annual financial model aggregating the price groups into the single product heading for Inbound International Expedited Services. Additionally, the Postal Service negotiated specific rates with certain countries' designated postal operators, such as Canada and China, which were classified elsewhere as products apart from the Inbound International Expedited Services product. Those agreements were presented to the Commission in other dockets with agreement-specific financial models.

Having established that the Inbound International Expedited Services satisfied statutory requirements for competitive products at the product level, the Postal Service was not required to establish compliance at the bilateral level with each Pay-For-Performance plan participant within that pricing category. Rather, the Postal Service notified the Commission in its quarterly updates of changes to the list of operators in each of the price categories. This process enabled the Postal Service to more quickly and efficiently enter into Pay-For-Performance agreements with other postal operators and to implement those agreements. The process also avoided unnecessary regulatory review of components within a price category that had already been validated by the Commission. The Postal Service hoped to gain these same benefits through the creation of the new pricing structure for Inbound EMS 2.

In the new pricing structure for Inbound EMS 2, Tier 1b, Enhanced Pay-For-Performance, is expected to include reciprocally discounted prices with other EMS

Cooperative Pay-For-Performance participating postal operators. These prices are based on the Pay-For-Performance prices and will involve only the application of a reciprocal percentage discount to achieve the final price. The least cost-covering potential discounts to the eligible parties were included in the Postal Service's financial model to demonstrate that even under the circumstances where the greatest discounts were applied to all Pay-For-Performance participants, Inbound EMS 2 would still comport with the provisions applicable to rates for competitive products.

By introducing Tier 1b as a price category, the Postal Service sought to improve its efficiency and reduce its expenses associated with the regulatory process. Hence, the Postal Service proposed to provide notice in its quarterly updates to the Commission concerning any arrangements to provide discounts to operators in the Tier 1b price category. This process would acknowledge that the implemented rates fell within the approved rates established for Inbound EMS 2. Routine filing of the agreements under the requirements of 39 U.S.C. § 407(d) would enable the Commission to review the specific agreements prior to their addition to the MCS list. As has been the case with the Pay-For-Performance bilateral agreements, the process would not require the Postal Service to create agreement-specific financial models for each operator included in the Enhanced Pay-For-Performance price category.

The requirements of 39 C.F.R. § 3015.5 apply when the Postal Service "determines to add or change a rate or class not of general applicability" and requires the Postal Service to file notice of its decision, along with sufficient revenue and cost data for the 12-month period following the effective date to demonstrate that each affected competitive product will be in compliance with 39 U.S.C. 3633(a)(2), a certified

statement attesting to the accuracy of the data, and an explanation why competitive products as a whole will remain in compliance with 39 U.S.C. § 3633(a)(1) and (3).

The Postal Service contends that it is not determining to add or change a rate or class when it agrees to provide the reciprocal discounts under Tier 1b of Inbound EMS 2, because those rates and the classification have already been established as a pricing category within the Inbound EMS 2 product and the discounted rates were used in the calculation of the cost coverage. It is only when the Postal Service determines that a change is needed to improve the Inbound EMS 2 product or to adjust its rates that the requirements of 39 C.F.R. § 3015.5 should apply. For example, if the Postal Service were to find it necessary to change the reciprocity of the Tier 1b discount to a different formulation, such as enabling the new operator to access a discounted Pay-For-Performance rate in proportion to some other factor, such as volume.

Therefore, the Postal Service asks the Commission to reconsider numbered paragraph 5 of Order No. 1822, as well as the content of footnote 10, and to modify the Order to require only that the Postal Service file the list of countries participating in reciprocal discounts with the Commission in the next quarterly update to the list of countries in each tier in Docket No. CP2013-77.

Conclusion

For the reasons discussed above, the Postal Service requests that the Commission modify Order No. 1822 to provide that the Postal Service notify the Commission of reciprocally discounted EMS rates through quarterly reporting and filings under 39 U.S.C. § 407(d).

Respectfully submitted,

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